

Tribal Border Infrastructure Program

2009 Request for Proposals

Funding Opportunity Number: EPA-R9-WTR1-09-005

Full Text of Announcement

I. FUNDING OPPORTUNITY DESCRIPTION

A. Background

The statutory authority of the Revised Continuing Appropriations Resolution (Public Law 110-329) provided EPA with the authority to award funds for the U.S. / Mexico border program. EPA allocated a portion of these funds for the Tribal Border Infrastructure program. This authority states, in part, that the funds “shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities.”

B. Scope of Work

The U.S. Environmental Protection Agency (EPA) Regions 6 and 9 Water Divisions are soliciting proposals for the Tribal Border Infrastructure Program. This program will fund high priority wastewater and drinking water infrastructure projects for federally-recognized Indian Tribes in Indian Country within 62 miles (100 kilometers) of the U.S. / Mexico Border. EPA anticipates up to \$1 million will be available for awards under this program. Funding for selected projects will be awarded through either a grant from EPA to the tribe, or through an Interagency Agreement (IA) between EPA and IHS. The regional Office where the Tribe is located and where the project will be performed will be responsible for making the award.

C. EPA’s Strategic Plan and Anticipated Programmatic Environmental Results

1. Linkage to EPA Strategic Plan

This request for proposals supports EPA’s strategic objective to decrease by 50%, by 2015, the number of people lacking access to safe drinking water and basic sanitation. These goals build upon EPA’s Strategic Plan, Goal 4, Subobjective 2.14 for Healthy Communities and Ecosystems in the U.S. / Mexico Border region (<http://www.epa.gov/ocfo/plan/2003sp.pdf>).

2. Priority Areas

Examples of high priority wastewater and drinking water infrastructure projects that may be funded under this announcement include but are not limited to:

Drinking water projects

- New wells to replace contaminated sources
- New water storage tanks to provide needed capacity
- Treatment/disinfection systems to ensure compliance with the Safe Drinking Water Act
- New distribution systems to replace old, small diameter lines susceptible to contamination

Wastewater projects

- Collection systems to replace failing individual septic tanks/drainfields and pit privies
- Wastewater treatment facilities
- Repair or replacement of cracked sewer lines

3. Measuring Environmental Results (Outputs and Outcomes)

For each priority area identified above, project proposals must articulate the project goals, objectives, activities and expected environmental results. Results are expressed as outputs and outcomes. The term “**output**” means an environmental activity, effort, and/or associated work products related to an environmental goal and objective. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.

The term “**outcome**” means the result, effect or consequence that will occur from carrying out an environmental program or activity. Outcomes may be environmental, behavioral, health-related or programmatic in nature, but must be quantitative. Impacts of programs or changes in behavior are typically intermediate outcomes that will eventually lead to desired changes in environmental or health status or ‘end’ outcomes.

The expected outputs from awards under this announcement include, but are not limited to, planning, design and construction of drinking water and wastewater infrastructure for federally recognized tribes in the U.S. / Mexico Border region. The expected outcomes of the awards under this announcement are the provision of safe drinking water and basic sanitation for these tribes.

II. AWARD INFORMATION

A. What is the amount of funding available?

EPA Regions 6 and 9 anticipate that \$1 million will be available to fund grants and/or and Interagency Agreements (IAs) for high priority wastewater and drinking water infrastructure projects on Indian lands within 62 miles (100 kilometers) of the U.S. / Mexico Border. The Regional Office where the Tribe is located and where the project will be performed will be responsible for making the award. EPA reserves the right to make additional awards under this announcement, consistent with Agency policy and guidance, if additional funding becomes available after the original selections are made. Any additional selections for awards will be made no later than 8 months after the original selection decisions.

B. How many grants will EPA award in this competition?

EPA estimates that approximately 2-4 projects will be funded under this announcement ranging from approximately \$250,000 to \$500,000. The awards will be made by either Region 6 or Region 9 as appropriate.

Funding will be awarded to eligible applicants through either grants to the tribe or through Interagency Agreements (IAs) between EPA and the Indian Health Service (IHS).

C. What is the budget and project period for awards(s) resulting from this solicitation?

EPA anticipates that the start date for these projects will be October 1, 2009, and the project completion date should not exceed three years.

D. Will EPA consider partial funding for these proposals?

In appropriate circumstances, EPA reserves the right to partially fund proposals by funding discrete portions or phases of proposed projects. If EPA decides to partially fund a project, it will do so in a manner that does not prejudice any applicants or affect the basis upon which the proposal or portion thereof, was evaluated and selected for award, and therefore maintains the integrity of the competition and selection process.

EPA reserves the right to reject all proposals and make no awards under this announcement. Funding for proposals is not guaranteed and is subject to the availability of funds and the evaluation of applications based on the criteria in this announcement. EPA is not bound by any estimates in this announcement. Award of funding through this solicitation is not a guarantee of future funds.

III. ELIGIBILITY INFORMATION

A. Eligible Applicants

All federally recognized Tribes located within 62 miles (100 kilometers) north of the U.S. / Mexico Border are eligible to apply for funding .

B. Threshold Eligibility Criteria

These are requirements that if not met by the time of proposal submission will result in elimination of the proposal from consideration for funding. Only proposals from eligible entities (see above) that meet all of these criterion will be evaluated against the ranking factors in Section V of this announcement. Applicants deemed ineligible for funding consideration as a result of the threshold eligibility review will be notified within 15 calendar days of the ineligibility determination

1. Proposals must be from eligible applicants for high priority drinking water or wastewater infrastructure projects to be performed in Indian Country within 62 miles (100 kilometers) north of the U.S. / Mexico Border. Proposals to perform projects outside the 62 mile U.S. / Mexico Border region are not eligible for funding and will be rejected.

Attachment 2 contains draft Guidance for Project Eligibility and Design under the Tribal Border Infrastructure Program.

2. Only Tribal infrastructure projects will be eligible for funding. These are systems owned, managed, and/or operated by Tribal governments which provide to the public either water for human consumption through pipes, constructed conveyances, or wells or wastewater treatment services through tribally-owned and/or operated treatment works.

3. Tribes that previously received funding under this program are eligible to compete for funding under this announcement as long as they are proposing a new project outside the scope of the previously funded project.

4. All project proposals must be submitted by the Tribal Chairperson or his/her designee. For proposals submitted through Grants.gov as described in Section IV, the electronic signatures of the Tribe's Authorized Organization Representative shall satisfy this criterion.

5. a. Proposal packages must substantially comply with the submission instructions and requirements set forth in Section IV of this announcement or else they will be rejected. However, where a page limit is expressed in Section IV with respect to the proposal, pages in excess of the page limitation will not be reviewed.

b. In addition, proposal packages must be received by the EPA or received through <http://www.grants.gov/>, as specified in Section IV of this announcement, on or before the proposal submission deadline published in Section IV of this announcement. Applicants are responsible for ensuring that their submission reaches the designated person/office specified in Section IV of the announcement by the submission deadline.

c. Proposal packages received after the submission deadline will be considered late and returned to the sender without further consideration unless the applicant can clearly demonstrate that it was late due to EPA mishandling or because of technical problems solely attributable to grants.gov and not the applicant. For hard copy submissions, where Section IV requires submission receipt by a specific person/office by the submission deadline, receipt by an agency mailroom is not sufficient. Applicants should confirm receipt of their proposal package with Loretta Vanegas as soon as possible after the submission deadline—failure to do so may result in your proposal package not being reviewed.

B. Funding Restrictions

The following are ineligible costs and should not be included in proposals:

- grant development cost ;
- non-related equipment purchase such as vehicles and computers

In addition, applicants must note that projects with transboundary (U.S. and Mexico) impacts must be certified by the Border Environment Cooperation Commission (BECC) under its criteria for certification of environmental infrastructure projects. This requirement must be complied with prior to grant award, or no grant will be awarded.

C. Cost Sharing or Matching

No matching funds are required.

IV. PROPOSAL SUBMISSION INFORMATION

A. Proposal Content.

All applicants must submit a narrative proposal as described below and the SF 424 form which can be found at <http://www.epa.gov/region09/funding/applying.html> .

The Narrative Proposal cannot exceed a maximum of 8 single-spaced, typewritten pages. Pages in excess of the 8 page limit will not be considered. Supporting materials, such as feasibility studies, can be submitted as attachments and are not included in the 8 page limit.

Proposals must contain the following information and meet the following requirements. Proposals must address all of the evaluation criteria in Section V.

1. Proposals must be submitted by the Tribal Chairperson or his/her designee. For proposals submitted through Grants.gov, the electronic signatures of the Tribe's Authorized Organization Representative shall satisfy this criterion.
2. Tribe name and address. Tribes must be within 62 miles north of the U.S. / Mexico Border Region.
3. Contact person with phone number, fax number and email address
4. Project name
5. Whether the Tribe wants EPA funds to be provided through an Interagency Agreement (IA) between EPA and the IHS, or through a direct grant between EPA and the Tribe.
6. A map of the project showing the project's location on the reservation.
7. A complete description of the project, based on the guidelines set forth in Section I, including any available documents, such as feasibility studies, environmental studies, and design documents. See Feasibility Study Guidance in Appendices B and C of Attachment 2.
8. A complete description of the public health or water quality problem to be addressed by the project. Describe whether the project addresses any of the following and provide any supporting documentation:

- a. Existing threats to public health
 - b. Existing water quality issue of significant environmental/ecological impact
 - c. Potential acute threats to health
 - d. Long-term/chronic exposure to non-acute human health impacts
 - e. Existing water quality issue that does not have a significant human health or ecological/environmental impact
9. The existing and planned number of houses, tribal members and non-tribal members to be served by the project. List also any non-residential users to be served by the project, and the capacity that is designed to serve these users as a percentage of the total design capacity.
10. An itemized estimate of project costs, the funding requested, and any other funds to be contributed to the project. For budgetary purposes, EPA will calculate the eligible planning and design costs using Table 1 – Allowance for Facilities Planning and Design from the EPA federal regulation 40 CFR Part 35, Subpart I, Appendix B. A 2.5% project administration fee will be allowed for direct grants and tribal procurement, based on construction costs.
11. EPA funds requested for the project. The source and amount of any other funds available for the project.
12. Status of the project. Has planning, environmental or design work been completed? If so, submit a copy with the proposal.
13. A short (approximately one page) itemized estimate of operation and maintenance (O&M) costs, and the Tribe's plan for funding these costs. If the proposed project will connect to an existing system, the estimate must include the O&M costs for the entire system. Also, attach the O&M rate structure and the actual O&M revenues and expenditures for the previous two years.
14. Describe the Tribe's O&M capacity; e.g., does the Tribe have a utility structure, water board, tribal resolutions, ordinances, certified operators, meters and a rate structure which charges according to use? Also, indicate any plans the Tribe has to improve its O&M capacity.
15. A timeline for completing the project, including target dates for starting and completing planning, design and construction. All projects should have an anticipated start date of October 1, 2009. All projects should be completed within 3 years.
16. An indication of whether the project has the potential to impact resources (e.g., aquifer, river) that are shared with Mexico. As stated above, projects with transboundary (U.S. and Mexico) impacts must be certified by the Border Environment Cooperation Commission (BECC) prior to grant award. For other projects, EPA will also consult with BECC regarding all selected proposals.
17. The applicants plan/approach for tracking and measuring their progress towards achieving the expected outputs and outcomes identified in Section 1 of this announcement.
18. Environmental Results Past Performance: Submit a list of federally funded assistance agreements (assistance agreements include Federal grants and cooperative agreements but not Federal contracts) that your organization performed within the last three years (no more than 3, and preferably EPA agreements), and describe how you documented and/or reported on whether you were making progress towards achieving the expected results (e.g., outputs and outcomes) under those agreements. If you were not making progress,

please indicate whether, and how, you documented why not. In evaluating applicants under this factor in Section V, EPA will consider the information provided by the applicant and may also consider relevant information from other sources, including information from EPA files and from current and prior Federal agency grantors (e.g., to verify and/or supplement the information provided by the applicant). If you do not have any relevant or available environmental results past performance information, please indicate this in the proposal and you will receive a neutral score for this factor under Section V.

19. Programmatic Capability: Submit a list of federally funded assistance agreements (assistance agreements include Federal grants and cooperative agreements but not Federal contracts) that your organization performed within the last three years (no more than 3, and preferably EPA agreements), and describe (i) whether, and how, you were able to successfully complete and manage those agreements and (ii) your history of meeting the reporting requirements under those agreements including submitting acceptable final technical reports. In evaluating applicants under these factors in Section V, EPA will consider the information provided by the applicant and may also consider relevant information from other sources, including information from EPA files and from current and prior Federal agency grantors (e.g., to verify and/or supplement the information provided by the applicant). If you do not have any relevant or available past performance or reporting information, please indicate this in the proposal and you will receive a neutral score for these factors under Section V.

In addition, provide information on your organizational experience and plan for timely and successfully achieving the objectives of the proposed project, and your staff/expertise qualifications, staff knowledge, and resources or the ability to obtain them, to successfully achieve the goals of the proposed project.

20. Applicants must also submit the Standard Form (SF) 424.

B. How to submit your proposal

Applicants have the option to submit their proposals by either hardcopy submission or electronically through www.Grants.gov. You must choose only **one method**. If you wish to apply with a mail/delivery hardcopy submission, please follow the instructions under **Hardcopy Submission**. If you wish to apply electronically via Grants.gov, please follow the appropriate instructions for **Electronic Submission** below (also see Attachment 1). EPA encourages applicants to submit their proposal materials electronically through Grants.gov. **Proposals submitted via e-mail and fax are not permitted and will not be reviewed.**

1. Hardcopy Submission

For proposal materials submitted via mail/commercial delivery service, the proposal narrative and the SF 424 must be received by EPA, Region 9 April 10, 2009, no later than **5 PM Pacific Standard Time**. Proposals received after this date will not be considered for funding

Please send one original and one copy of your proposal package, prepared as described above, to:

**Loretta Vanegas
Tribal Border Infrastructure Program Coordinator
EPA Region IX, WTR-10
75 Hawthorne Street
San Francisco, CA 94105**

2. Instructions for electronic submittal through Grants.gov (See Attachment 1)

C. Management Fees

When formulating budgets for proposals/applications, applicants must not include management fees or similar charges in excess of the direct costs and indirect costs at the rate approved by the applicants cognizant audit agency, or at the rate provided for by the terms of the agreement negotiated with EPA. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs that are not allowable under EPA assistance agreements. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

D. DUNS number

A Dun and Bradstreet Data Universal Numbering System (DUNS) number is required on all federal applications for assistance. Your organization may obtain a DUNS number at no cost by calling Dun & Bradstreet at (866) 705-5711 or on the Internet:
<https://eupdate.dnb.com/requestoptions.html>

E. Confidential Business Information

It is recommended that confidential business information ("CBI") **not** be included in your proposal/application. However, if confidential business information is included, it will be treated in accordance with 40 CFR 2.203. Applicants must clearly indicate which portion(s) of their proposal/application they are claiming as CBI. EPA will evaluate such claims in accordance with 40 CFR Part 2. If no claim of confidentiality is made, EPA is not required to make the inquiry to the applicant otherwise required by 40 CFR 2.204(c)(2) prior to disclosure. However, the agency considers competitive proposals/applications confidential and protected from disclosure prior to the completion of the competitive selection process.

NOTE: Pursuant to 40 CFR 30.36, data produced under an award is subject to the Freedom of Information Act.

F. Intergovernmental Review

Pre-application Coordination: The applicant should consult the Regional Indian Program Coordinator designated as the single point of contact for more information. This program is excluded from coverage under E.O. 12372.

G. Proposal Communications and Assistance

In accordance with EPA's Competition Policy of January 11, 2005 (EPA Order 5700.5A1), EPA staff will not meet with individual applicants to provide informal comments on draft proposals, or provide advice to applicants on how to respond to ranking criteria. Applicants are responsible for the contents of their applications/proposals. EPA will respond to questions from individual applicants regarding threshold eligibility criteria, administrative issues related to the submission of the application, and requests for clarification about the announcement.

H. Contracts and Subawards/Subgrants

1. Use of Funds for Subawards/Subgrants, Contracts, and Partnerships

EPA awards funds to one eligible applicant as the recipient even if other eligible entities are named as partners or co-applicants or members of a “coalition,” “consortium,” or “partnership.” The recipient is accountable to EPA for the proper expenditure of funds.

If a successful applicant intends to use EPA assistance agreement funds to purchase goods or services under the assistance agreement, such applicants must compete the contracts for those goods and services and conduct cost and price analyses to the extent required by the procurement provisions of 40 CFR Parts 30 or 31, as appropriate. The regulations also contain limitations on consultant compensation. **While applicants are not required to identify contractors or consultants in their proposal, if they do so it does not relieve the applicant of its obligations to comply with competitive procurement requirements, nor does it guarantee that costs incurred for such contractor/consultant will be eligible under the assistance agreement.**

NOTE: Applicants may not award sole source contracts to consulting, engineering, or other firms assisting applicants with the proposal based solely on the firm’s role in preparing the proposal.

Successful applicants may award subgrants (also referred to as subawards) of financial assistance to fund partnerships under the EPA assistance agreement provided the recipient complies with applicable requirements for subgrants/subawards, including those contained in 40 CFR Parts 30 or 31, as appropriate. Subgrants/subawards do not have to be competed; **however, successful applicants cannot use subgrants/subawards to avoid requirements in EPA grant regulations for competitive procurement by using subgrants/subawards to acquire commercial services or products from for-profit organizations.** EPA will not be a party to subgrant/subaward agreements.

2. Consideration of Proposed Subawardees/Subgrantees and Contractors during Proposal Evaluation

Section V of the announcement describes the evaluation criteria and evaluation process that will be used by EPA to make selections under this announcement. During this evaluation, except for those criteria that relate to the applicant's own qualifications, past performance, and reporting history, the review panel will consider, as appropriate and relevant, the qualifications, expertise, and experience of:

- a. An applicant's named subawardees/subgrantees identified in the proposal if the applicant demonstrates in the proposal that if it receives an award that the subaward/subgrant will be properly awarded consistent with the applicable regulations in 40 CFR Parts 30 or 31. For example, applicants must not use subawards/subgrants to obtain commercial services or products from for-profit firms or individual consultants;
- b. An applicant's named contractor(s), including consultants, identified in the proposal if the applicant demonstrates in its proposal that the contractor(s) was selected in compliance with the competitive procurement standards in 40 CFR Parts 30 or 31, as appropriate. For example, an applicant must demonstrate that it selected the contractor(s) competitively or that a proper noncompetitive sole-source award consistent with the regulations will be made to the contractor(s), that efforts were made to provide small and disadvantaged businesses with opportunities to compete, and that some form of cost or price analysis was conducted. EPA may not accept sole source justifications for contracts for services or products that are otherwise readily available in the commercial marketplace.

EPA will not consider the qualifications, experience, and expertise of named subawardees/subgrantees and/or named contractor(s) during the proposal evaluation process unless the applicant complies with these requirements.

V. APPLICATION REVIEW INFORMATION

A. Criteria

Each proposal from an eligible applicant that meets the applicable threshold eligibility factors in Section III of the announcement will be evaluated by a panel of EPA staff based on the criteria set forth below.

Proposals must address each criterion. The evaluation criteria and corresponding point values are listed below. The maximum score is 100 points.

40 points

1. The extent and quality to which the proposal addresses an existing public health or water quality problem. (40 points)

a. 15 points: Extent and quality to which the proposal addresses residential public health and water quality problems. .

———Examples: Potential human exposure to microbiological contaminants through drinking water systems; contact exposure due to inadequate wastewater disposal

b. 10 points: Extent and quality to which the project addresses existing water quality issues of significant environmental/ecological impact.

c. 15 points: Extent and quality to which the project addresses potential and actual acute threats to health or long-term/chronic exposures to human health threats.

10 points 2. The extent and quality to which the proposal includes provisions for long-term operation and maintenance (O&M).

Extent and quality to which the applicant has existing systems for long-term O&M and proposes infrastructure for long-term O&M

Examples: utility structure, water board, user fees, tribal O&M resolutions and ordinances

10 points 3. The extent to which the proposal identifies sufficient funding sources to adequately finance the entire project.

Projects should have calculated costs for the following items: preliminary planning; engineering and design; parts, material, equipment and labor costs; construction management oversight; construction inspection; and, project administration (indirect and other costs).

10 points 4. The extent and quality to which the proposal addresses planning, design, construction or related activities associated with drinking water and wastewater infrastructure improvements. Drinking water projects must address water quality issues, not supply (quantity) issues.

Eligible examples: engineering, environmental impact studies, inspection, administration

Ineligible examples: grant development costs, non-related equipment purchase such as vehicles and computers

10 points 5. The extent to which the proposal reasonably demonstrates the applicants' ability to complete the project within 3 years. Factors to be evaluated will include the scope of the project, readiness to proceed, and the extent to which planning and/or design work has already been completed.

10 points 6. Programmatic Capability

Under this criterion, applicants will be evaluated based on their ability to successfully complete and manage the proposed project taking into account the applicant's:

- a. **3 points:** Past performance in successfully completing and managing federally funded assistance agreements (assistance agreements include Federal grants and cooperative agreements but not Federal contracts) similar in size, scope, and relevance to the proposed project performed within the last 3 years.
- b. **3 points:** History of meeting reporting requirements under federally funded assistance agreements (assistance agreements include Federal grants and cooperative agreements but not Federal contracts) similar in size, scope, and relevance to the proposed project performed within the last 3 years and submitting acceptable final technical reports under those agreements.
- c. **2 points:** Organizational experience and plan for timely and successfully achieving the objectives of the proposed project.
- d. **2 points:** Staff expertise/qualifications, staff knowledge, and resources or the ability to obtain them, to successfully achieve the goals of the proposed project.

Note: In evaluating applicants under this criterion, the Agency will consider the information provided by the applicant and may also consider relevant information from other sources including agency files and prior/current grantors (e.g., to verify and/or supplement the information supplied by the applicant). Applicants with no relevant or available past performance or reporting history (items a and b above), will receive a neutral score (1/2 of the available points) for those elements of this criterion.

10 points 7. Environmental Results Tracking and Past Performance

- a. (5 points) Under this criterion, applicants will be evaluated based on the extent and quality to which they adequately documented and/or reported on their progress towards achieving the expected results (e.g., outcomes and outputs) under Federal agency assistance agreements (assistance agreements include

Federal grants and cooperative agreements but not Federal contracts) performed within the past three years, and if such progress was not being made whether the applicant adequately documented and/or reported why not.

Note: In evaluating applicants under this criterion, the Agency will consider the information provided by the applicant and may also consider relevant information from other sources including agency files and prior/current grantors (e.g., to verify and/or supplement the information supplied by the applicant). Applicants with no relevant or available past performance history, will receive a neutral score (1/2 of the available points) for this factor.

b. (5 points) Applicants will be evaluated based on their plan for tracking and measuring their progress towards achieving the expected project outputs and outcomes including those identified in Section I.

B. Review and Selection

An EPA review committee will evaluate those proposals that meet the threshold eligibility criterion in Section III against the factors identified above, and score and rank each such proposal. The committee will then submit its funding recommendations, based on the rankings, to the Selection Official, who will select the proposal(s) for funding based on these recommendations and rankings. In making the final award determinations, the Selection Official will consider the review committee recommendations and rankings and may also consider program diversity and geographical diversity.

VI. AWARD ADMINISTRATION INFORMATION

Following final selections, all applicants will be notified in writing regarding the status of their proposal.

- a. EPA will notify selected applicant(s) in writing within 15 days after internal recommendation decisions are made. At this time they will be requested to submit a final application. This notification, which advises that the application has been recommended for award, is not an authorization to begin performance.
- b. For selected proposals, by approximately May 13, 2009, the IHS must submit final draft Project Summary/Memorandum of Agreement for projects to be funded through an Interagency Agreement (IA) with IHS, or Tribes must submit final grant applications and workplans for projects to be awarded through a direct grant. An invitation to apply for funds is not a guarantee of funding. The Project Summary/Memorandum of Agreements or application and workplan must be approved by EPA before funding can occur.
- c. Administrative and National Policy Requirements: 40 CFR Part 31

Successful applicants will be required to certify that they have not been debarred or suspended from participation in federal assistance awards in accordance with 40 CFR 32.

Agreements with Tribal Governments are subject to 40 CFR Part 31 and 2 CFR Part 225 (OMB Circular A-87). A listing and description of general EPA Regulations applicable to the award assistance agreements may be viewed at:

<http://www.epa.gov/ogd/grants/regulations.htm>. Copies of the circulars can be found at <http://www.whitehouse.gov/omb/circulars/>.

In accordance with the EPA policy and OMB circular, any recipient of funding must agree not to use assistance funds for fund-raising, or political activities such as lobbying members of Congress or lobbying for other federal grants, cooperative agreements, or contracts. EPA grant funds may only be used for the purposes set forth in the grant agreement, and must be consistent with the statutory authority for the award. Grant funds may not be used for matching funds for other Federal grants, or intervention in Federal regulatory or adjudicatory proceedings. In addition, Federal funds may not be used to sue the federal government or any other government entity.

In certain circumstances, costs incurred prior to the grant award may be eligible for reimbursement. However, this does not include any costs associated with responding to this solicitation or in finalizing the application package. If costs are incurred before the award, they are incurred at the applicant's or grantee's own risk.

C. Reporting Requirements

Quarterly project status reports, a final project status report, and Financial Status Reports will be required. The quarterly reports must include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement workplan for the period; 2) the reasons for slippages if established outputs/outcomes were not met; and, 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

D. Disputes

Assistance agreement competition-related disputes will be resolved in accordance with the dispute resolution procedures published in 70 FR (Federal Register) 3629, 3630 (January 26, 2005) which can be found at

<http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/05-1371.html>. Copies of these procedures may also be requested by contacting Loretta Vanegas at (415) 972-3433 or vanegas.loretta@epa.gov or Vijay Limaye at (415) 972-3442 or limaye.vijay@epa.gov.

E. NEPA & CROSS CUTTER COMPLIANCE:

Federally funded infrastructure projects are subject to a detailed environmental review process under the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the National Historic Preservation Act (NHPA) and other cross-cutting authorities. The NEPA process invites public participation regarding the proposed project and its potential effects. Substantive and potentially costly mitigation, impact

avoidance, and monitoring measures are all potential outcomes of the environmental review process, particularly under ESA. These measures may include, but are not limited to monitoring and reporting potentially sensitive information such as water usage, groundwater levels, listed species, and cultural resources. The likelihood of these types of outcomes is dependent upon the number and sensitivity of the environmental and cultural issues identified during the environmental review process. For this reason, we strongly encourage the Tribe, at the earliest possible time, to contact the U.S. Fish and Wildlife Service, the National Marine Fisheries Services, and/or the State Historic Preservation Office to discuss potential endangered species or cultural resource impacts of the project and to identify possible outcome of the environmental review process.

F. Consultation with the Border Environment Cooperation Commission

EPA will consult with the Border Environmental Cooperation Commission prior to award in accordance with the legal requirements that apply to funding these projects.

VII. AGENCY CONTACT

For additional information, please contact the Tribal Border Infrastructure Coordinators:

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